IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE MR JUSTICE N.V. RAMANA

WRIT PETITION NO. 4506 of 1998

DATED: 29.8.2007

Between:

The Regional Manager,
APSRTC, Hyderabad & ors petitioners

And

Sri M Prakash
C/o Sri Shaik Mynoddin
Advocate, TRT 123
Jawaharnagar, Hyderabad & another Respondents

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ORAL ORDER:

This writ petition is filed questioning the award dated 21.8.1997 in I.D. No. 232 of 1994 on the file of the Labour Court, III, Hyderabad directing reinstatement of the first respondent –workman into service with continuity of service and attendant benefits but without backwages.

The petitioner herein is management of A.P. State Road Transport Corporation. The first respondent-workman, who was working as conductor in the petitioner corporation was issued with a charge sheet dated 3.5.1993 alleging cash and ticket irregularities. Having not satisfied with the explanation offered by the respondent-workman, an enquiry was ordered, wherein the charges leveled against the first respondent-workman were held proved. Basing on the report of the enquiry officer, the first respondent passed removal order dated 27.8.1993. Aggrieved by the same, the petitioner raised an Industrial Dispute and the same was registered as I D No.232 of 1994 on the file of the Labour Court-III, Hyderabad. The Labour Court on consideration of the matter, passed an award reinstating the first respondent into service with continuity of service and attendant benefits but without backwages. Questioning the said award, the petitioner corporation filed the present writ petition.

The first respondent filed a counter affidavit alleging that findings of the enquiry are defective and he was not afforded reasonable

opportunity in the enquiry. That he has very clean record of service and having regard to the facts and circumstances of the case, the Labour Court judiciously exercised its discretion and ordered reinstatement and the award of the labour Court needs no interference.

Heard the learned counsel for petitioner corporation and learned counsel for first respondent Mr S.A.K Moinuddin and perused the material available on record.

The first respondent, as is evident from the award, did not seriously challenge the procedural aspects and validity of the departmental enquiry. The disciplinary authority, considering the nature of the proved charges, imposed punishment of removal from service. The Labour Court taking into consideration Ex.M-6 check sheet, that there are only two passengers in the bus at the time of check and the passengers statement that they have paid Rs.5/- to the conductor towards the fare and the conductor has returned Rs.3/- to them and did not issue tickets, held that the charges leveled against the first respondent-workman are proved, however, on the ground that the amount involved is very little, and the punishment of removal is too harsh and it is disproportionate to the proved misconduct, modified the punishment and ordered reinstatement.

There is no doubt under Section 11-A of the Industrial Disputes Act, 1947, the Tribunal has the power to modify the punishment imposed by the authorities from that of removal/dismissal/termination to that of a lesser punishment, but such modification should be based on proper and convincing reasons. In the instant case, though the Tribunal held that the charges leveled against the first respondent are proved, it failed to assign any reasons as to how the punishment imposed by the authorities on the first respondent is disproportionate to the proved misconduct. Since the award passed by the Labour Court,

is silent on how the punishment imposed by the authorities on the first respondent is disproportionate to the proved misconduct, I am of the considered opinion that matter has to be remanded to the Labour Court, for consideration of the question whether the punishment imposed by the authorities on the first respondent is disproportionate to the proved misconduct and is shocking to the conscience of the Court, and for passing of a reasoned order.

In the above view of the matter, the award passed by the Labour Court cannot be sustained, and the same is accordingly set aside. The writ petition is allowed. The matter is remanded to the Labour Court, for adjudication of the question whether the punishment imposed by the authorities on the first respondent-workman is disproportionate to the proved misconduct and is shocking to the conscience of the Court, and pass a reasoned order. No costs.

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N.V.RAMANA,J

DATE: 29.8.2007
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